

FILED

**United States District Court
Northern District of California**

APR 20 2011

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE

UNITED STATES OF AMERICA**v.****ALBERTO DE LA ROSA****JUDGMENT IN A CRIMINAL CASE**

USDC Case Number: CR-10-00503-001 JW

BOP Case Number: DCAN510CR000503-001

USM Number: None

Defendant's Attorney :Douglas L. Rappaport

THE DEFENDANT:

- ☒ pleaded guilty to count(s): One through Five of the Indictment.
☐ pleaded nolo contendere to count(s) ___ which was accepted by the court.
☐ was found guilty on count(s) ___ after a plea of not guilty.

The defendant is adjudicated guilty of these offense(s):

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Offense Ended</u>	<u>Count</u>
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See next page.

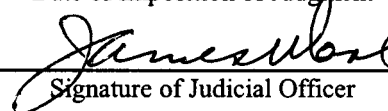
The defendant is sentenced as provided in pages 2 through 8 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

- ☐ The defendant has been found not guilty on count(s) ____.
- ☐ Count(s) ____ (is)(are) dismissed on the motion of the United States.

IT IS ORDERED that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of any material changes in economic circumstances.

April 11, 2011

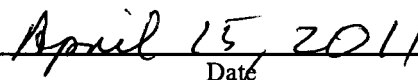
Date of Imposition of Judgment



Signature of Judicial Officer

Honorable Chief James Ware, U. S. District Judge

Name & Title of Judicial Officer



Date

DEFENDANT:

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CASE NUMBER:

ADDITIONAL COUNTS OF CONVICTION

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Date Offense Concluded</u>	<u>Count Number(s)</u>
26 U.S.C. § 7206(1)	Filing False Tax Return	October 15, 2005	One
26 U.S.C. § 7206(1)	Filing False Tax Return	June 13, 2006	Two
26 U.S.C. § 7206(1)	Filing False Tax Return	October 15, 2007	Three
26 U.S.C. § 7206(1)	Filing False Tax Return	October 14, 2008	Four
26 U.S.C. § 7206(1)	Filing False Tax Return	April 29, 2009	Five

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PROBATION

The defendant is hereby sentenced to probation for a term of FIVE (5) years. This term consists of 5 years probation on each of Counts One through Five, to be served concurrently with each other.

The defendant shall not commit another federal, state, or local crime. The defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of placement on probation and two periodic drug tests thereafter.

- ☐ The above drug testing condition is suspended based on the court's determination that the defendant poses a low risk of future substance abuse. (Check if applicable.)
- ☒ The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon. (Check if applicable.)
- ☒ The defendant shall cooperate in the collection of DNA as directed by the probation officer. (Check if applicable.)
- ☐ The defendant shall register with the state sex offender registration agency in the state where the defendant resides, works, or is a student, as directed by the probation officer. (Check if applicable.)
- ☐ The defendant shall participate in an approved program for domestic violence. (Check if applicable.)

If this judgment imposes a fine or restitution, it is a condition of probation that the defendant pay in accordance with the Schedule of Payments sheet of this judgment.

The defendant must comply with the standard conditions that have been adopted by this court as well with any additional conditions in this judgment.

Any appearance bond filed on behalf of the defendant is hereby exonerated.

STANDARD CONDITIONS

- 1) The defendant shall not leave the judicial district without permission of the court or probation officer;
- 2) The defendant shall report to the probation officer, and shall submit a truthful and complete written report within the first five days of each month;
- 3) The defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) The defendant shall support his or her dependants and meet other family responsibilities;
- 5) The defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) The defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
- 7) The defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
- 8) The defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) The defendant shall not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
- 10) The defendant shall permit a probation officer to visit him or her at any time at home or elsewhere, and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) The defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) The defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the Court; and
- 13) As directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics, and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

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SPECIAL CONDITIONS OF PROBATION

1. The defendant shall comply with the rules and regulations of the U.S. Immigration and Customs Enforcement and, if deported, not reenter the United States without the express consent of the Secretary of the Department of Homeland Security. Upon any reentry into the United States during the period of court ordered supervision, the defendant shall report to the nearest U.S. Probation Office within 72 hours.
2. The defendant shall pay any restitution and special assessment that is imposed by this judgment and that remains unpaid at the commencement of the term of supervised release.
3. The defendant shall provide the probation officer with access to any financial information, including tax returns, and shall authorize the probation officer to conduct credit checks and obtain copies of income tax returns.
4. The defendant shall not open any new lines of credit and/or incur new debt without the prior permission of the probation officer.
5. The defendant shall not maintain a position of fiduciary capacity without the prior permission of the probation officer, and shall not be employed as a profession tax preparer.
6. The defendant shall comply and cooperate with the IRS in a good-faith effort to pay any outstanding tax liability, to include any assessed penalty and interest.
7. The defendant shall provide the U. S. Probation Office with a copy of any written and approved agreement with the IRS for the payment of any outstanding tax liability, to include penalty and interest, within 10 days from the execution of such agreement.
8. The defendant shall timely and accurately file all future income tax returns required by law during the term of supervision, unless an extension of time is granted by the IRS.
9. The defendant shall abstain from the abuse of all alcoholic beverages.
10. The defendant shall participate in a program of testing and treatment for alcohol abuse, as directed by the probation officer, until such time as the defendant is released from treatment by the probation officer. The defendant is to pay part or all of the cost of this treatment, at an amount not to exceed the cost of treatment, as deemed appropriate by the probation officer. Payments shall never exceed the total cost of urinalysis and counseling. The actual co-payment schedule shall be determined by the probation officer.
11. The defendant shall participate in a mental health treatment program, as directed by the probation officer. The defendant is to pay part or all cost of this treatment, at an amount not to exceed the cost of treatment, as deemed appropriate by the probation officer. Payments shall never exceed the total cost of mental health counseling. The actual co-payment schedule shall be determined by the probation officer.
12. The defendant shall not own or possess any firearms, ammunition, destructive devices, or other dangerous weapons.

DEFENDANT: ALBERTO DE LA ROSA

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SPECIAL CONDITIONS OF PROBATION (continued from pg. 4)

13. The defendant shall cooperate in the collection of DNA as directed by the probation officer.
14. The defendant shall participate in the Home Confinement with Electronic Monitoring Program and shall abide by all the requirements of the program for a period of eight (8) months. Other location verification methods may be utilized in conjunction with this program. The defendant shall pay the cost of monitoring at the prevailing rate unless it is determined by the probation officer that s/he has an inability to pay. A co-payment amount will then be determined by the probation officer. The defendant is restricted to his/her residence at all times except for activities which have been pre-approved by the probation officer, including employment, education, religious services, medical, substance abuse or mental health treatment, attorney visits, court appearances, or court ordered obligations. During the term of home confinement, the defendant shall abstain from the use of alcohol and shall submit to drug or alcohol testing as directed by the probation officer.

DEFENDANT: ALBERTO DE LA ROSA

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CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the schedule of payments on Sheet 6.

	<u>Assessment</u>	<u>Fine</u>	<u>Restitution</u>
Totals:	\$ 500	\$1,000	\$ 41,666

☐ The determination of restitution is deferred until . An *Amended Judgment in a Criminal Case* (AO 245C) will be entered after such determination.

☒ The defendant shall make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportional payment unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

<u>Name of Payee</u>	<u>Total Loss*</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
IRS-RACS ATTN: Mail Stop 6261, Restitution, 333 W. Pershing Avenue, Kansas City, MO, 64108	\$41,666	\$41,666	
<u>Totals:</u>	<u>\$41,666</u>	<u>\$41,666</u>	

☒ Restitution amount ordered pursuant to plea agreement \$ 41,666

☐ The defendant must pay interest on restitution and a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 6, may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).

☐ The court determined that the defendant does not have the ability to pay interest, and it is ordered that:

☐ the interest requirement is waived for the ☐ fine ☐ restitution.

☐ the interest requirement for the ☐ fine ☐ restitution is modified as follows:

* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

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SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties are due as follows:

- A ☒ Lump sum payment of \$500.00 due immediately, balance due
- ☐ not later than ____, or
- ☒ in accordance with () C, () D, () E or (X) F below; or
- B ☐ Payment to begin immediately (may be combined with () C, () D, or () F below); or
- C ☐ Payment in equal (e.g. weekly, monthly, quarterly) installments of \$ over a period of __ (e.g., months or years), to commence _ (e.g., 30 or 60 days) after the date of this judgment; or
- D ☐ Payment in equal (e.g. weekly, monthly, quarterly) installments of \$ over a period of __ (e.g., months or years), to commence _ (e.g., 30 or 60 days) after release from imprisonment to a term of supervision; or
- E ☐ Payment during the term of supervised release will commence within (e.g. 30 or 60 days) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or
- F ☒ Special instructions regarding the payment of criminal monetary penalties:

The Defendant shall pay to the United States a special assessment of \$500, which shall be due immediately. Criminal monetary payments shall be made to the Clerk of the U.S. District Court, Attention Finance, 450 Golden Gate Ave, Box 36060, San Francisco, CA 94102.

The Defendant shall pay a fine in the amount of \$1,500, which shall be due immediately. Payments shall be made to the Clerk of the U.S. District Court, 450 Golden Gate Ave, Box 36060, San Francisco, CA 94102

It is further ordered that the defendant shall pay restitution to IRS-RACS ATTN: Mail Stop 6261, Restitution, 333 W. Pershing Avenue, Kansas City, MO, 64108, in the amount of \$41,666, which shall be due immediately. While on probation, restitution payments shall be made to the Clerk of the U.S. District Court, 450 Golden Gate Ave, Box 36060, San Francisco, CA 94102, in minimum monthly payments of no less than \$200.

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties

DEFENDANT: ALBERTO DE LA ROSA

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imposed.

☐ Joint and Several

Defendant and co-defendant Names	Case Numbers (including defendant number)	Total Amount	Joint and Several Amount	Corresponding Payee (if appropriate)

☐ The defendant shall pay the cost of prosecution.☐ The defendant shall pay the following court cost(s):☐ The defendant shall forfeit the defendant's interest in the following property to the United States:

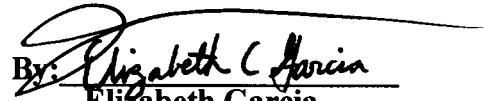
1 **THIS IS TO CERTIFY THAT COPIES OF THIS ORDER HAVE BEEN MAILED TO:**

2 United States Pretrial Services Office
3 United States Probation Office
4 United States Marshal Service
280 South First Street
San Jose, CA 95113

5
6 **Dated:**

4/20/11

Richard W. Wieking, Clerk

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8 By: 
Elizabeth Garcia
9 Courtroom Deputy

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United States District Court
For the Northern District of California

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RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

UNITED STATES OF AMERICA,

NO. CR 10-00503 JW

Plaintiff,

**SEALING ORDER PURSUANT
TO GENERAL ORDER 54**

v.

ALBERTO DE LA ROSA,

Defendant.

The following documents in this action are placed under seal and shall not be opened except by the United States Sentencing Commission for its eyes only and shall not be transmitted or otherwise opened except by order of this court upon application.

☒ Presentence Report

☐ Plea Agreement

☒ Statement of Reasons

☐ _____
(Other)

Dated: April 15, 2011


JAMES WARE
United States District Chief Judge